

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-mc-00079-FDW-DCK

IN RE LOT 67 OF HERON’S POND,
MECKLENBURG COUNTY,

RICHARD W. CALPHEN and EDNA E.
CALPHEN,

 Petitioners.

ORDER

THIS MATTER is before the Court sua sponte concerning Petitioners Richard W. Calphen and Edna E. Calphen’s (“Petitioner’s”) filing of a Federal Common Law Lien and Notice of Federal Common Law Lien Writ of Attachment on Real and Personal Property and amendment thereto. (Doc. Nos. 1, 2). For the reasons stated herein, the Court hereby STRIKES these filings as nonsensical and frivolous and finds that the two documents have no legal force or effect. Additionally, the Court warns Petitioners that submitting further frivolous filings to the Court could result in Petitioners being held in contempt of court. Moreover, Petitioners are hereby put on notice that if they submit further frivolous filings to this Court, the Court will consider imposing a prefiling injunction on Petitioners and referring them to the United States Department of Justice and/or United States Attorney’s Office for investigation of fraud.¹

¹ The Court notes that Petitioners are free to submit non-frivolous filings to the Court. Federal courts “should not in any way limit a litigant’s access to the courts absent exigent circumstances, such as a litigant’s continuous abuse of the judicial process by filing meritless and repetitive actions.” Thomas v. Fulton, 260 Fed. Appx. 594, 586 (4th Cir. 2008) (quoting Cromer v. Kraft Foods N. Am. Inc., 390 F.3d 812, 817 (4th Cir. 2004)). However, “[f]ederal courts have the authority to issue prefiling injunctions against vexatious litigants.” Id. (citing Cromer, 390 F.3d at 817).

On May 12, 2015, Petitioners filed the above document, which they then amended on May 13, 2015. (Doc. Nos. 1, 2). Petitioners' filings provide notice "that a FEDERAL COMMON LAW LIEN WRIT OF ATTACHMENT ON REAL AND PERSONAL PROPERTY is now in effect on certain parcel of Real Estate now of record in the name of Edna E. Calphen and Richard W. Calphen, Lienor ... on properly located in Mecklenburg County, North Carolina, and known as address: 8401 Rockmoor Ridge Road, Charlotte, North Carolina, 28215" Id. The Court finds that federal law does not recognize such a lien, and as such, this lien is invalid and without any legal effect. As noted above, Petitioners should not file any similar frivolous filings in the future, and Petitioners failure to follow this Order, or to use these frivolous filings in State court, could result in Petitioners being held in contempt of court. Moreover, should Petitioners make similar frivolous filings to this Court, the Court will consider referring Petitioners to the Department of Justice and/or United States Attorney's Office for investigation of fraud.

IT IS THEREFORE ORDERED that Petitioners' filings (Doc. Nos. 1, 2) are STRICKEN from the record and Petitioners are ordered not to submit future frivolous filings to the Court. Additionally, the Clerk of Court is respectfully directed to send a certified copy of this Order, along with Documents 1 and 2 filed in this matter, to the Clerk of Superior Court, Post Office Box 37971, Charlotte, North Carolina, 28237.

IT IS SO ORDERED.

Signed: May 18, 2015

A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

